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COMMISSION ON HUMAN RIGHTS

Forty-seventh session

SUMMARY RECORD OF THE 46th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 28 February 1991, at 3.30 p.m.

Chairman: Mr. BERNALES BALLESTEROS (Peru)

later: Mr. AMOO-GOTTFRIED (Ghana)

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The meeting was called to order at 3.35 p.m.

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (agenda item 21) (E/CN.4/1991/5 and Add.1, 54 and Add.1 and 55)

1. Mr. MARTENSON (Under-Secretary-General for Human Rights), introducing agenda item 21, said that, since joining the Centre for Human Rights, he had been convinced of the need for an action-oriented approach by the United Nations in the field of human rights. His approach had been based on the three pillars of legislation, implementation and information/education.

2. While the legislative process was to a large extent completed, the implementation of human rights standards remained a priority. As he had stated earlier, advisory services and technical assistance activities formed part of a comprehensive programme and complemented the legislative, monitoring and investigative procedures of the United Nations human rights programme.

3. He had thus revitalized and given high priority to the advisory services and technical assistance programme, because it offered the United Nations a unique opportunity to assist countries in the broadest possible implementation of international human rights standards.

4. Priority had been given to the following activities: strengthening or establishing national infrastructures, revising and adapting domestic legislation to conform to international human rights standards, playing a catalytic role in promoting other human rights activities and training nationals responsible for the implementation of international human rights standards.

5. It was his firm conviction that the current juncture offered unprecedented possibilities for technical assistance and co-operation in the field of human rights. With the continuing support of the Member States, he was confident that efficient use would be made of that essential United Nations programme and that a small but effective contribution would be made to individuals and countries in their quest for the realization of human rights and fundamental freedoms everywhere.

6. Since the Voluntary Fund for Advisory Services and Technical Assistance in the Field of Human Rights had become operational in mid-1988, the Centre had organized some 30 regional or national workshops or training courses, including those financed from the regular budget, in all parts of the world. In the process, some 2,500 administrators of justice and government and law enforcement officials had been trained by highly qualified international experts.

7. While training had been and remained an important component of the Centre's projects, he realized that, in order to sustain action over time and to provide for stronger infrastructures, a more complex and composite form of assistance was needed which, in turn, required greater financial commitments. In that connection, discussions were being held with various Governments regarding the establishment of national centres for human rights training.

8. He hoped that the Voluntary Fund would receive increasing support from the donor community, as requests for technical assistance and co-operation in the field of human rights had increased considerably over the past few years.

9. Drawing attention to the report of the Secretary-General on advisory services (E/CN.4/1991/55), he recalled that, in 1990, the Centre had organized, in co-operation with the respective Governments, national training courses in Paraguay and Uruguay and an Asian and Pacific Regional Workshop in the Philippines. In addition, an International Seminar on the factors contributing to racism, racial discrimination and apartheid had been held at Geneva in December 1990, and a national workshop on the rights of the girl child, in co-operation with the Government of India, had been organized at New Delhi in the same month.

10. A European Workshop on International Standards in the Field of Human Rights had been held at Kiev, Ukrainian SSR, in September 1990, and a three-day conference on human rights in constitutional and statutory development in Bulgaria, organized by the International Human Rights Law Group, in co-operation with the Centre and the Bulgarian Grand National Assembly, had been held at Sofia from 21 to 23 January 1991.

11. In addition, the Centre had continued to assist the African Commission on Human and Peoples' Rights of the Organization of African Unity and the Arab Institute of Human Rights at Tunis, and had undertaken various technical co-operation projects in eight countries, including Colombia, Paraguay, Hungary, Romania, Guinea and Guatemala.

12. The previous week, the Namibian Ministry of Justice, the Raoul Wallenberg Institute at Lund, Sweden, and the Centre had co-sponsored a national human rights workshop in Namibia. For six full days, several human rights experts from inside and outside Namibia had described in detail the international and regional standards and procedures, as well as the Namibian Constitution and national legislation. That had been followed by very intensive and positive discussions concerning the promotion and observance of human rights among the 45 participants, including ministers at the cabinet level and representatives from a number of government departments and the courts.

13. Mention should also be made of the assistance provided by the Centre to the Government of Romania. In April and May 1990, the services of two international experts had been provided to advise the national authorities on the legal aspects of democratic elections in the country. The experts had assisted the Central Electoral Bureau on a number of issues and made practical suggestions. Furthermore, in December 1990, the Centre had organized a consultative mission to Geneva of the Parliamentary Commission and its experts entrusted with the drafting of the new Constitution. The second phase of that programme had consisted of a mission by one international expert, accompanied by two experts from the Centre's staff, to Bucharest from 11 to 15 February 1991 in order to discuss with members of Parliament the various features of the new Romanian Constitution and other human rights aspects of constitutional law.

14. With a view to increasing its co-operation with regional and national institutions, the Centre had in 1990 provided resource persons or sent participants to more than 70 seminars, training courses or meetings convened by other organizations. The exchange of views and information during those meetings had enabled participants to identify further forms and areas of possible closer co-operation between the Centre and other United Nations organs, specialized agencies, competent non-governmental organizations and other human rights institutions.

15. The Centre had increasingly strengthened its co-operation and co-ordination in the field of technical assistance within the United Nations system, particularly with the United Nations Development Programme, with which important joint projects had already been undertaken in Latin America.

16. In that context, regular inter-agency meetings had been held at Geneva every year since 1988, in order to review planned activities and broaden the scope for co-operative endeavours. Many joint projects had been undertaken with various agencies.

17. It should be noted that regional co-operation had also included close contacts and activities with the Council of Europe and the Organization of American States. Those two bodies had been invited to participate in seminars and workshops organized and co-sponsored by the Centre in Paraguay, the Ukrainian SSR, the Philippines, Uruguay and Senegal.

18. Most of those activities could not have been carried out without the crucial financial support provided by the Voluntary Fund. By the end of 1990, the total contributions to the Fund had amounted to some $US 2 million. He expressed his thanks once again to the contributors and reiterated his call for more adequate funding in order to meet the steadily increasing requests from Governments.

19. Lastly, he drew attention to the reports of the Experts on Equatorial Guinea (E/CN.4/1991/54 and Add.1) and Guatemala (E/CN.4/1991/5 and Add.1).

20. Mr. TOMUSCHAT (Expert on Guatemala), introducing his report (E/CN.4/1991/5 and Add.1), said that the main purpose of his two visits to Guatemala had been to collect extensive and detailed information about the human rights situation in that country so as to obtain a clear picture, not only of the law on the books, but also of the facts as they confronted an ordinary citizen in daily life. To that end, talks had been held with all those who bore institutional responsibility for the actual state of human rights, starting with the highest dignitaries of the nation. On each occasion, the former and current Presidents had granted him appointments and had engaged in an absolutely frank and open discussion with him. He had likewise had the opportunity to exchange views with the Minister for Foreign Affairs and the Ministers of Defence and the Interior, and to hold conversations with the leading figures in the field of crime prevention and prosecution, the President of the Supreme Court and the Director of the National Police.

21. Moreover, meetings had been arranged with members of the National Congress and the Procurator for Human Rights. In all instances, the interlocutors had been prepared to listen carefully to arguments representing the letter and spirit of the standards elaborated by the United Nations in the field of human rights. In particular, the new Government of President Serrano had manifested a firm resolve to improve Guatemala's tarnished reputation by introducing and enforcing sweeping reforms.

22. On the other hand, it had obviously been necessary to take into account what social groups, in particular human rights organizations, trade unions and mutual-assistance associations, had to say. In that connection, it had been

possible to speak to the victims of disappearances, murderous attacks and other human rights abuses. In particular, during his last stay in Guatemala, he had travelled to the town of Santiago Atitlán, where an army unit had killed 13 citizens during a peaceful demonstration in December 1990. Thus, he had been able to look at the crucial problems from differing and even opposing points of view.

23. He emphasized that the authorities had always extended their fullest co-operation to him and that his work had not been impeded by them in any way. He had been able to travel freely to any part of the country which he wished to visit and to talk to everyone whose opinion he had considered to be significant for the purposes of his mandate. He was most grateful for the spirit of co-operation and openness which he had encountered almost everywhere.

24. The main problem from which Guatemala was still suffering was the general state of insecurity. Some 30 years previously, a tragic civil war had begun in which tens of thousands of human beings had lost their lives. Ten years earlier, the death toll had reached a saddening high point when brutal counter-insurgency operations had been launched which were still engraved in the memories of all Guatemalans.

25. Since a democratically-elected Government had taken office in 1986, a slow normalization process had begun. The fact that the new Government had been able to follow its predecessor in full accordance with the rules set forth in the national Constitution of 1985 was a hopeful sign.

26. Yet, even under the auspices of democracy, human rights and the rule of law, as embodied in that Constitution, the year 1990 had again seen a frightening number of politically-motivated crimes, the victims of which had been mainly human rights activists, politicians and journalists. To the outside observer, it was almost obvious that certain groups specializing in disappearances and killings were still operating. According to most knowledgeable observers, such disappearances and summary executions were normally perpetrated by paramilitary units.

27. It was deeply depressing, not only that such crimes could occur, but also that over the years, not a single one of the culprits had been identified and convicted. Thus, Guatemalans themselves spoke of a principle of impunity, which of course was not a normative principle, but a lamentable actual state of affairs. Guatemala would not be able to move towards a brighter future if that wound was permitted to continue to poison the social body of the nation.

28. The Minister of Defence and the Director of the National Police had both assured him that no paramilitary units or death squads that would engage in atrocious activities against political enemies currently existed. However, even if they themselves were not aware of any violations of basic human rights, they must none the less use their best efforts to review, scrutinize and control all their units, from top to bottom, as to their full and complete respect for and observance of the law.

29. They must make it unmistakably clear that no infringements of the rights of other citizens would be condoned or tolerated. It was the primary responsibility of every Government to ensure law and order and to guarantee

the lives and integrity of all citizens without any discrimination whatsoever. The same held true for the guerrilla forces: they were under the same obligation to respect human life, the supreme value in the hierarchy of human rights.

30. Institutional reforms were also required with regard to the existing machinery for the prevention and punishment of crime. Fortunately, the deficiencies of the current system had already been acknowledged in Guatemala. In the first place, a badly trained and badly paid police force must acquire a new professionalism and ethical commitment. Secondly, the Public Prosecutor's Office required a thorough structural re-organization. It was that Office which bore the main responsibility for bringing to trial the perpetrators of criminal offences, but everyone in Guatemala agreed that its performance in combating political crime was virtually nil.

31. A draft statute was currently being prepared with a view to making penal prosecution a living and effective institution. The National Congress would soon have to show its commitment to human rights in dealing with that draft. Lastly, the judicial stage of crime repression had many flaws. In particular, proceedings were conducted mostly in writing, a peculiarity which entailed serious delays and was little suited to disclosing the truth.

32. A new draft code of criminal procedure, currently pending before the National Congress, would do away with cumbersome formalities and introduce oral hearings, in accordance with all the international human rights instruments. It was to be hoped that the Congress would speed up its work on that project, which was not, of course, a panacea capable of curing by itself all the ills which had befallen the judiciary in Guatemala.

33. Mutual mistrust, nourished by the fatal experiences of the past, lay at the heart of most problems. That wall of mistrust and suspicion must be torn down. If Guatemalans united in their sincere endeavours to establish a society free from the constant threat of death, they could succeed. In fact, the national dialogue, based on the Esquipulas Accords, had brought together Guatemalans from all walks of life and provided them with a unique opportunity to discuss the crucial problems afflicting their society. An important new stage of that process had been initiated in 1990 when, under the auspices of the National Commission on Reconciliation, the different social sectors had met with representatives of the guerrilla umbrella organization.

34. There was a good chance, therefore, that the civil war might soon come to an end. If and when that occurred, 80 to 85 per cent of all human rights violations would also cease.

35. The work carried out in Guatemala by non-governmental human rights organizations under difficult and dangerous conditions was fundamental to the democratic process begun in 1986. The Government should not only guarantee the security of their representatives, but should also consult and involve them in the programmes adopted by the national authorities to translate into practical action Government policies for the protection and promotion of human rights.

36. Guatemala must overcome the traumas of the past. In the contemporary era, military force was little suited to resolving the problems of society. In fact, there was a multitude of other problems which could and must be

tackled, once a new climate of human rights and the rule of law had been established. Employment must be ensured for a fast-growing population. The level of education was scandalously low, with a rate of illiteracy among indigenous women of over 60 per cent.

37. Guatemala was, of course, a country with many ethnic communities. Thus, improving the level of education also meant facing up to a reality characterized by the co-existence of different languages, of Spanish and a number of Mayan languages. With the creation of the Academy for Mayan Languages, an important step had been taken in that direction.

38. Human rights required reliable foundations in Guatemalan society. It was not enough to create bureaucratic structures. The top-down approach must be combined with a bottom-up approach. At the grass-roots level, the educational efforts already under way should be pursued and strengthened. To that end, the advisory services provided by the United Nations could make an essential contribution.

39. In his view, it would be totally wrong to conclude that, since Guatemala was currently struggling with serious problems, assistance should be suspended as having proved useless. As a new step, however, non-governmental human rights organizations should be included in the relevant programmes. The international community should continue to show its concern through substantial material support. As a corollary, on the other hand, it should monitor developments in Guatemala with the utmost vigilance. The new Government, which had pledged to do better than its predecessors, should be given a fair chance to translate its determination into hard facts.

40. Mr. RODAS MELGAR (Observer for Guatemala) said that, on 14 January 1991, President Serrano had taken office in Guatemala, having been elected by the people in a free, pluralistic and fair election. The Serrano Government had pledged itself before the Guatemalan people and the international community to ensure the observance and full enjoyment of human rights. To that end, it had decided to carry out all the necessary legislative and institutional reforms.

41. Furthermore, the new Government was providing and would continue to provide its fullest support to the Procurator for Human Rights, an institution established by the Constitution which operated in complete independence of the State and Government authorities, and would also strengthen the independence of the judiciary in order that criminal offences should not go unpunished.

42. In his view, therefore, the new Government, which was trying substantially to improve the human rights situation and to achieve a lasting peace and social justice, should be supported by the entire international community. In that connection, the Government recognized and accepted the Commission's decision to consider the situation of human rights in Guatemala under the agenda item on advisory services and to renew the mandate of the independent Expert.

43. The Commission had been concerned with the situation in Guatemala since 1981. An analysis of the events of the past decade would lead to the conclusion that there had been a positive evolution. Dictatorial and repressive Governments installed through fraudulent elections had given way to civilian, democratic and popularly-elected Governments. A situation in which there had been no national institutions to promote and ensure respect for

human rights had given way to one in which there was an independent judiciary, a Constitutional Court and a Procurator for Human Rights. An attitude of total non-co-operation with the Commission had given way to permanent ties and co-operation with both the Commission and other institutional bodies.

44. However, there was still much to be done. What was required was not only the political will to promote the necessary reforms but also international co-operation in all areas. He stressed his Government's support for the National Commission on Reconciliation and the national dialogue, the aim of which was to promote agreemen' among all the sectors of Guatemalan society in order to confront the challenge of economic and social development.

45. Likewise, his Government attached great importance to the conversations between the political, business, religious, trade-union, academic and co-operative sectors, on the one hand, and the subversive movements, represented by the National Revolutionary United Front (URNG) on the other, under the auspices of the National Commission on Reconciliation, with a view to integrating the armed movements into the peaceful political process within the constitutional framework.

46. The Government's political will had also been reflected in the establishment of the Advisory Commission on Human Rights matters to the Office of the President of the Republic and the Ad Hoc Committee for Aid to Refugees and the signing and ratification of international agreements in the field of human rights.

47. Accordingly, his Government hoped that the great change taking place worldwide and in the region would persuade the guerrilla movements to suspend their terrorist activities, which were destroying the country's economic infrastructure and preventing development, to the detriment of the neediest. He reaffirmed his conviction that peace was indispensable for the consolidation of democracy and the realization of economic and social development; accordingly, his Government would spare no efforts to put an end to the armed conflict, and agreed to discuss the proposals made within the framework of the Constitution and the Esquipulas II Accord, the Oslo Agreement and the El Escorial Agreement.

48. His delegation agreed with the Expert on the need to separate economic, social and cultural rights from civil and political rights. Concerning the former, the unemployment, malnutrition, inadequate medical care, illiteracy, housing shortage and inequitable distribution of land referred to in the report, exacerbated by the external and domestic economic crisis and the armed conflict with subversive groups, had had an adverse impact on the economic and cultural rights of the population.

49. His Government had demonstrated a growing interest in the social compact between business and labour with a view to improving employment, combating inflation and ensuring a more equitable and efficient system of taxation. Efforts had been made to eradicate corruption and promote the work of the ministries of labour, education and health.

50. With regard to civil and political rights, his Government considered it essential to have a well-trained police force and to enhance the Office of the Public Prosecutor in order to put an end to the unfortunate tradition

of impunity. The Criminal Code and the Code of Criminal Procedure must be reformed and the working methods of the courts reorganized. All those measures were essential in order to investigate and punish cases of human rights violations.

51. The State institutions had been corrupted under the dictatorial régimes, but the current Government had had neither the time nor sufficient resources for their urgently needed modernization.

52. Accusations that his Government lacked the will and authority to combat crime and violence were doing harm to the democratic system and aided and abetted those who sought to restore a dictatorship. His Government would strive to strengthen its democratic institutions, but it relied on the understanding and co-operation of the international community.

IMPLEMENTATION OF THE DECLARATION ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE AND OF DISCRIMINATION BASED ON RELIGION OR BELIEF (agenda item 22) (E/CN.4/1991/56)

53. Mr. D'ALMEIDA RIBEIRO (Special Rapporteur), introducing his fifth report on the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (E/CN.4/1991/56), said that the phenomenon under consideration was very diversified in its geographic distribution, despite the existence of a number of international legal standards - some of them mandatory - guaranteeing freedom of thought, conscience and religion. His role was not to make accusations or value judgements, but to help arrive at a better understanding of the circumstances surrounding intolerance and discrimination on the basis of religion or belief, to mobilize international public opinion and to establish a dialogue with the Governments and all other parties concerned.

54. The information received over the past year demonstrated the persistence, in a wide variety of forms and varying degrees of seriousness, of intolerance towards freedom of thought, conscience and religion. He was pleased, however, at the growing co-operation of Governments, which was reflected in the large number of replies he had received. Since the report had been completed, further replies had been received from Pakistan and the Dominican Republic in response to allegations that had been transmitted to them, as well as replies from Israel, Portugal and the United States of America; they would be duly reflected in his next report.

55. Over the past year he had received information from a wide range of sources concerning incidents and measures incompatible with the provisions of the Declaration. As in the past, religious intolerance had manifested itself by the refusal of religious denominations co-existing in a society to accept membership of another religious denomination, or proselytism or publications on the practice of another denomination. The phenomena sometimes included the application of government measures, such as the confiscation of goods, the denial of legal guarantees, the prohibition of access to education, medical care and ration cards, the right to employment, the right to have a passport or the right to compensation for damages.

56. In a number of isolated cases, he had even received allegations that apostasy was subject to the death penalty. Cases of torture for reasons of religion or belief had also been transmitted. Intolerance based on religion

had also taken the form of a ban on training and appointing a sufficient number of members of the clergy or on repairing places of worship and had even given rise to open persecution, including physical attack and corporal punishment. Violations of freedom of religion often led to violations of other human rights, such as the right to life, to freedom and security of the person, to physical integrity, to freedom of expression and to freedom of movement, and, if they persisted on a large scale, such violations could pose a threat to world peace also. Thus, the international community must remain vigilant.

57. He expressed his concern with regard to information received about persistent instances of violence and threats against members of certain religious communities, particularly when they constituted a minority. Even more alarming were allegations that security forces had, in some cases, participated in the repression. Intransigence, dogmatic interpretations and historical or cultural disputes were often the reason behind such behaviour.

58. Governments must do their utmost to combat religious intolerance. They could do so in the form of socio-economic and educational measures to create a political climate conducive to a better understanding between religious communities. The advisory services of the United Nations should also play an active role.

59. He was encouraged by the recent positive developments in the countries of Eastern Europe, a consequence of their policy of openness and transparency. The announced changes in legislation there could serve as a model for the entire world.

60. He welcomed the large number of responses from Governments during the period under consideration, in particular those that had provided detailed information on the legislation in their countries and on practical measures to combat religious intolerance. That information would be useful if the decision were taken to draft another international instrument more complete than the Declaration; he had been supporting the idea of a convention for years, and the ranks of its partisans had been swelling. The replies showed that some countries had excellent legislative guarantees to protect the right to worship. Such legislation often incorporated or drew upon the relevant provisions of the main international human rights instruments.

61. A major obstacle to the effective implementation of legislation was the de facto impunity for acts perpetrated by security agents, military or paramilitary forces and certain social groups. Shortcomings in the administration of justice were sometimes a contributing factor as well.

62. A number of countries had appeal procedures for persons whose right to freedom of religion or belief had been violated, but there was still little uniformity in the types of existing approaches.

63. He welcomed the interest expressed by a number of countries in human rights advisory services and urged the Centre for Human Rights to find imaginative solutions to the problems raised.

64. Lastly, he expressed appreciation to the non-governmental organizations (NGOs) for their invaluable co-operation, and urged them to continue to draw to his attention any information they had on cases relevant to his mandate.

65. Mr. KOUPTCHICHINE (Ukrainian Soviet Socialist Republic) said that, in the Ukrainian SSR, freedom of conscience presupposed freedom of both religious and atheistic beliefs, which must be ensured without any discrimination. The individual's right to decide his own attitude toward religion was a vital criterion for a democratic society; any departure from that principle automatically had an adverse impact on human rights, as could be seen from the past history of his country.

66. For a long time, religion in the Ukrainian SSR had been regarded as the opium of the people, and religious worship had been the target of severe propaganda attacks. Despite legislation guaranteeing freedom of religion, it had been impossible to prevent de facto violations of the rights of worshippers of all confessions. The national church had been singled out for particularly harsh repression, and at the same time, the Russian Orthodox Church - objectively speaking, a tool for Ressification - had taken over a large number of places of worship from the Catholic Church and the Autocephalous Orthodox Church of the Ukraine. Justice was being restored, however, and by, the end of 1989, the Catholic Church had been granted all rights guaranteed by law to other religious communities in the Ukrainian SSR.

67. Efforts had been made to promote a dialogue to overcome the animosities that still existed between the religious communities and to improve relations between the Church and the State. Law enforcement bodies had taken additional measures to prevent illegal seizure of places of worship and the propagating of religious enmity.

68. The Council of Ministers of the Republic was drafting legislation on freedom of belief and freedom of religious association. The legislation would guarantee the right to preach any religion, to worship alone or in a group and to disseminate information on religious or atheistic beliefs. It also ensured all citizens equality before the law, regardless of their religion.

69. In keeping with the wishes of believers, Christmas, Easter and Whit Sunday had been declared public holidays.

70. There were currently more than 10,000 different religious associations in the Ukrainian SSR, the number having almost doubled in recent years. Religious seminaries of the Russian Orthodox Church had been opened at Kiev and at Lvov, and a centre had been established for Seventh Day Adventists. Religious associations regularly received Bibles and other religious material from abroad, and they also issued newspapers, journals and other publications. Contacts had been growing with religious associations around the world, and in 1989-1990, several thousand religious personalities from many countries had visited the Ukraine.

71. His delegation supported the recommendation of the Special Rapporteur that an international convention be prepared on the elimination of all forms of intolerance and of discrimination based on religion or belief. A working group should be established to that end. It must be rendered possible, in that or some other way, to hold accountable States that violated the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

72. Mr. WANG Xuexian (China) said that the Constitution of the People's Republic of China provided for freedom of religion and belief. Every citizen was free to choose or to change his religion or sect. Religion was therefore a matter of personal choice and all legitimate beliefs and activities enjoyed the respect and legal protection of the Government. There were currently some 2,000 religious organizations in China and over 40,000 sites and buildings for religious activities. There were about 50 schools dedicated to training young clergy for the various denominations and the religions in China had friendly links with the religious organizations of some 70 countries and regions.

73. China's policy of freedom of religious belief was based on the scientific recognition of the fact that it was one of the objective requirements for carrying out the socialist modernization of a country. Religion reflected the people's thinking and, since many people believed in religion, the attitude towards religion was also a question of the attitude towards the people.

74. The policy therefore aimed at uniting all the people of the country, believers and non-believers, in the common endeavour of building the country. At a recent national meeting on religious work, the leaders of China had reaffirmed their determination to implement the policy of freedom of religious belief.

75. Chinese law protected freedom of worship. The Criminal Code sanctioned with prison terms State officials who unlawfully deprived citizens of that right or violated the customs and practices of minority ethnic groups. No one was arrested for his religious beliefs, but there had been cases of individuals and believers who had been prosecuted for engaging in illegal and criminal activities, such as fraud, blackmail and sorcery under the name of religion. Others had used religion to engage in seduction and rape. All people were equal before the law and justice was meted out equally to all offenders whether believers or not. He assumed that all countries in the world shared the same view.

76. Mr. SIBAL (India) said that secularism was established in the Indian Constitution and was the foundation of the country's democracy. The Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief had been adopted against the background of the heinous crimes repeatedly committed against humanity on account of religious intolerance. His delegation hoped that the Declaration would be fully implemented throughout the world.

77. With reference to the Special Rapporteur's report (E/CN.4/1991/56), he noted the continued allegations of infringements of rights and freedoms and the varied manifestations of religious intolerance. He shared the Special Rapporteur's concern that many persons were still being imprisoned for religious reasons and that some persons were subjected to torture and ill-treatment or were even eliminated as a result of their religious activities.

78. His delegation agreed with the conclusions of the Special Rapporteur that the best guarantee for the respect of religious rights and freedoms was the effective functioning of democratic institutions and the rule of law. It joined him in urging all States that had not already ratified the relevant international instruments to do so.

79. India, a country composed of peoples of diverse origin had cradled many faiths: Hinduism, Buddhism, Jainism and Sikhism. Christianity had been introduced in apostolic times. India was thus composed of a rich mosaic of religions, had a tolerant society and, as the world's largest democracy, guaranteed to all the universally acknowledged human rights and fundamental freedoms.

80. The provisions of the Constitution ensured those freedoms and, in fact, an entire sub-chapter was devoted to freedom of religion. For example, it stipulated the right to freedom of conscience and to freedom of worship, the right of every religious denomination as a group to establish and maintain institutions for religious and charitable purposes and, further, that no religious instruction was to be provided in any educational institution wholly maintained out of State funds.

81. Every citizen was entitled to appeal to the Supreme Court of India or the high courts of the states if those rights were violated. The rights and freedoms embodied in the Constitution were further buttressed by a vigilant press and an informed public opinion.

82. India, as a secular State, respected all faiths and beliefs and had no State religion. The Constitution stated that it was the fundamental duty of every citizen to promote harmony among all the peoples of India, transcending all religious, linguistic, regional or sectional diversities. The school curricula were aimed at developing tolerance among the young and the government agencies, including the official media, tried to promote the feeling through numerous activities and programmes.

83. Civil servants and public officials were instructed that, in the course of their official duties, they were not to discriminate against persons professing religions and beliefs different from their own. With a view to ensuring the effective enforcement of the constitutional provisions, the Government had established a Minorities Commission with very wide terms of reference.

84. In conclusion, he emphasized that the Government and people of India were irrevocably committed to secularism and urged the Commission to intensify and strengthen its efforts to remove the last symptoms of intolerance and discord.

85. Mr. BAIER (Austria) commended the Special Rapporteur on his report (E/CN.4/1991/56). He had compiled a wealth of information on the measures taken by States to combat intolerance and other material from Governments, non-governmental organizations and other religious and lay sources regarding the constitutional and legal guarantees of freedom of thought, conscience, religion and belief. The country reports submitted under article 18 of the International Covenant on Civil and Political Rights might serve as additional sources in future studies.

86. He shared the Special Rapporteur's interest in the constitutional amendments announced by some of the countries of Central and Eastern Europe, and hoped that the relevant provisions of the Conference on Security and Co-operation in Europe would be fully implemented and that further progress would be made in respect of the right of everyone to give and receive religious education and the right of individual believers and communities to acquire the necessary religious materials and to increase and facilitate their access to the mass media.

87. He noted with regret that infringements of the rights and freedoms established in the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief were continuing at two levels. Firstly, at the national level, there was legislation contrary to existing human rights standards, partly because of the predominant role of State religions or national churches in some countries. The question had been addressed in an earlier study of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and it deserved further examination. His delegation regarded the prescription in one country of the death penalty for apostasy as utterly repugnant.

88. Secondly, at the lower level, there were various acts which entailed the responsibility of Governments or were tolerated by them and involved the use of violence or the threat of its use when dealing with religious problems. His delegation was alarmed at the failure of the security forces to intervene in certain situations and at the disturbing reports that such forces had actually taken part in repression based on religious intolerance. Manifestations of fanatical opinions continued to be tolerated or encouraged by Governments, even when they could lead to other violations such as intimidation, torture and murder.

89. Against that background, it was unfortunate that some countries had once again refused to co-operate with the Special Rapporteur. He emphasized that the Special Rapporteur's role should never be interpreted as that of a public prosecutor or detective and appealed to the Governments of the countries concerned to co-operate with him.

90. His delegation shared the concern of the Special Rapporteur that the majority of countries did not apply the principle of reciprocity concerning the practice of religion by foreigners. While he understood the reasons for their decision, he warned that the principle of reciprocity would hardly serve the cause of religious freedom if it were negatively applied.

91. His delegation agreed with the Special Rapporteur's recommendation that States should continue to consider the usefulness of a separate binding instrument on the elimination of religious intolerance. Any new instrument should, however, provide even greater protection than the previous ones. In the meanwhile, his delegation supported the Special Rapporteur's appeal to States which had not yet done so, to ratify the relevant international instruments.

92. It also welcomed his suggestion that advisory services should be made available to those countries desirous of drafting new legislation or of adapting existing legislation to the standards of international instruments. Lastly, he thanked the NGOs for their part in promoting the freedom of religion and thought and urged that they should be given national and international support.

93. Ms. ARRIAGA (United States) said that her Government firmly believed that religion or belief was one of the fundamental elements in a person's conception of life. That was also the overall view of the international community, as expressed in the fourth preambular paragraph of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. Article 4 of the Declaration required all States to take effective measures to prevent and eliminate discrimination on the grounds of religion or belief and to take all appropriate measures to combat intolerance.

94. The Special Rapporteur's analysis of the manifestations of intolerance in his very first report (E/CN.4/1987/35) was still valid. Legislative provisions, government policies and social and political circumstances were all factors which hampered the implementation of the Declaration. The nature and underlying causes of intolerance remained unchanged.

95. Her Government commended the Special Rapporteur on his method of summarizing allegations of manifestations of intolerance and including the government replies to his inquiries in his reports. He had gone further still in his current report (E/CN.4/1991/56) and included the responses of 35 Governments to a number of general questions which he considered particularly relevant.

96. Her delegation was concerned about the serious and detailed allegations of religious intolerance in the form of official practices directed against Buddhist monks and nuns in Tibet and against Christian clergy in Northern China. There were also extensive allegations of official practices directed against the Baha'is and Christians of Armenian ethnic origin in Iran. The invitation to the Special Rapporteur to visit Iran was a positive sign, however, and she hoped he would take it up.

97. Her Government was deeply troubled by the comments regarding the supposed crime of apostasy, as reported by the Special Rapporteur (para. 76). The renunciation or change of one's religion or belief was a personal question of conscience and not a matter for the State. It was a right protected by article 18 of the Universal Declaration of Human Rights and article 1 of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. The freedom to believe also included the freedom to change one's belief and the characterization of apostasy as a crime unquestionably involved State-sponsored intolerance.

98. National constitutions and statutes sometimes established a State ideology which illegally restricted the expression of religious views. In that connection, the aggressive stance of the Cuban Government was not a theoretical issue because it resulted in actual abuses. Amnesty International had recently denounced the arrest of six Jehovah's Witnesses, and a report published by two NGOs had also documented several cases of the common practice in Cuba of prescribing psychiatric treatment for what was termed as the abuse of religious freedom.

99. In past reports, the Special Rapporteur had made some useful suggestions concerning ways in which the international community could more effectively promote religious tolerance and mutual respect, but they had not yet been considered in sufficient depth. They included the need to improve educational practices and professional training, the possibility of establishing national institutions to promote tolerance, and the constructive role of the NGOs. He had further emphasized that the best guarantee of a climate conducive to tolerance and understanding seemed to be the effective functioning of democratic institutions, the reduction of socio-economic inequalities and the removal of the causes of interdenominational friction and tensions. On more than one occasion, he had emphasized the useful and constructive contribution that could be made by the United Nations advisory services in the field of human rights.

100. The international community had performed well in establishing the human rights standards to eliminate intolerance based on religion or belief but a more energetic and systematic approach was needed to promote tolerance and mutual respect. Her delegation would welcome practical suggestions on methods of accomplishing those goals and her Government would participate actively in them.

101. Mr. MEZZALAMA (Italy) said that freedom of religion and tolerance were best protected by strongly supporting the values of secularism and mutual respect. Such protection should be guaranteed by specific legislation which had gained the consensus of all schools of thought, and by a country's institutions and the vigilance of its citizens.

102. In a democratic society, freedom of conscience and religion should be matched by respect for the freedom of others. There could be no room for force or for the imposition of one's beliefs on others or for the pre-eminence of one denomination or religion within a community.

103. His delegation welcomed the fact that the Special Rapporteur had, through his questionnaire, established a direct dialogue with Governments, the more so as it noted the persistent manifestations of intolerance and discrimination based on religion and belief. It agreed with the Special Rapporteur that the direct causes of intolerance were, in some cases, the result of a deliberate policy pursued by a Government but that the underlying causes were often social, economic or cultural tensions and that dogmatism and radicalism inevitably led to clashes.

104. As for a general assessment of the data and information assembled by the Special Rapporteur, that would have to wait until replies had been received from more Governments. He suggested, however, that the Special Rapporteur should undertake a study of the constitutional or equivalent provisions of the various States regarding individual or collective freedom of religion or belief and submit it as an annex to his next report.

105. In Italy, his Government had just finished drafting a new bill on the freedom of religion and belief, which incorporated several of the principles of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. It had completely restructured the section on relations between the State and religious denominations in order to improve understanding, tolerance, and respect with relation to religion or belief.

106. The protection of places of worship and of religious monuments and centres that constituted the spiritual heritage of the peoples was, in his delegation's view, indissolubly linked with the question of freedom of religion. Such protection should guarantee inter alia access to such places and the freedom to set up and maintain them for purposes of worship.

107. There were two aspects of the Declaration on which the Special Rapporteur could usefully extend his direct dialogue with Governments: namely, the right of parents in respect of the moral and religious education of their children, including the protection of the child and his conscience from any form of discrimination on the ground of religion or belief, and conscientious objection.

108. The problem of conscientious objection could no longer be limited to the traditional setting of military service. Conscientious objection might be defined as the right of an individual deliberately to refuse to perform his legal obligations on the grounds of conscience. There were many examples in the case law of the various countries to prove that such problems were not limited to the military area and conscientious objection extended to any subject which involved the freedom of conscience. The human right of freedom of conscience was established in essence in the Charter of the United Nations (Article 1, para. 3 and Articles 55 and 56) and was in fact the very core of the freedom of religion.

109. The long history of religious intolerance in the world could take an unexpected turn as the twentieth century drew to a close and measures to eliminate and prevent its forms and manifestations should be reviewed. Careful reflection on the mutations of the phenomenon, whose effects were being felt but whose causes were not fully understood, would be appropriate. The concept of freedom of religion should not be fixed immutably, but should evolve with the changes in human society.

110. Mr. CUNHA ALVES (Portugal) said that, notwithstanding recent historic advances in the promotion and protection of human rights, the right to freedom of thought, conscience, religion and belief continued to be violated. That right, proclaimed in articles 2 and 18 of the Universal Declaration of Human Rights, was reiterated and reinforced in the two International Covenants on Human Rights, that had been broadly ratified by the Member States of the United Nations.

111. Some newly adopted international instruments contained explicit references to the right of freedom of religion. That right was, for example, reflected in the General Assembly's adoption, at its forty-fifth session, of a resolution containing a set of minimum rules for the protection of juveniles deprived of their liberty which stated inter alia that all juveniles should be allowed the right to satisfy their religious and spiritual needs.

112. Ten years after the proclamation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, its implementation was still wanting in by many States throughout the world, as the Commission's Special Rapporteur had again recorded in his latest report (E/CN.4/1991/56). According to that report, incidents and governmental actions inconsistent with the Declaration had persisted in most regions, examples being violations of the right to practise the religion or belief of one's choice, and the censorship or closure of publications relating to religion or worship, as well as the continued detention of many persons, in some cases subjected to torture and ill-treatment, for reasons of religion.

113. He had also noted, however, the world community's growing interest in such problems, and the genuine efforts being made by many Governments to restrict intolerance and discrimination. The continued co-operation of non-governmental organizations with the Special Rapporteur was also noteworthy. As the latter had pointed out, the best guarantee for observance of those rights and freedoms remained the efficient functioning of democratic institutions and the rule of law. The United Nations advisory services had an important role to play in that respect.

114. The Portuguese Constitution of 1976 gave explicit expression to freedom of conscience, religion and worship, even during a possible state of emergency. Article 41 stated that Church and other religious communities were separate from the State and free to organize and exercise their own ceremonies and worship. No one could be persecuted or exempted from civil rights and duties because of religious convictions. Although, for reasons of history, the State still accorded a special status to the Roman Catholic Church, that did not affect the State's recognition of freedom for all other religions.

115. In matters such as social security and tax exemption, for example, all religions were treated on an equal basis, as they were with regard to education and access to the media. The growing diversity of religious associations was a current feature of life in Portugal. The Constitution and the Penal Law, in particular one section of the 1982 Penal Code, protected individuals against religious intolerance. That constitutional framework, enhanced by specific laws, was in full conformity with the principles enshrined in the Declaration.

116. The question of adopting a binding international instrument on freedom of religion or belief deserved careful consideration by the Commission and other human rights forums. His delegation, while generally subscribing to the Special Rapporteur's view in that regard, would prefer the instrument in question to take the form of a new additional protocol to the International Covenant on Civil and Political Rights.

117. Mr. ATMANI (Morocco) said that his delegation, which had read with great interest the Special Rapporteur's report (E/CN.4/1991/56), despite its late appearance, would like to supplement the information provided by his Government, as shown on pages 15 and 21 of the report.

118. Secularity in Muslim States was not to be regarded as an anti-religious stand while, conversely, the adoption of Islam as a State religion was not to be deemed a rejection of secularity. Although most of those who upheld the Sharia took it to mean the application of religious sanctions in penal matters, other spheres of the law could have a judicial existence independent of traditional religious law. While all Moroccan citizens enjoyed freedom of religion, the views of Muslim jurists sometimes seemed to imply that law and social morality must be linked, and that the State founded on principles derived from the Koran and the Sunna was still a supranational State, an ideal to be attained.

119. Moreover, it might also be wondered whether the legislations of certain Muslim States, focused on regionalism, were not at variance with the desire to re-establish the "Umma", the Muslim nation-State, under that same law, regardless of local needs. If Muslim traditionalists should once again become influential and endeavour to set up a compulsory judicial channel, the religious freedom of minorities would undoubtedly be threatened.

120. In Morocco, religious freedom stemmed from article 6 of the Constitution, which stipulated, that the State safeguarded the right of worship, and was confirmed in the 1958 Code of Public Freedoms and the Penal Code. Religious freedom applied to belief, conscience and worship. Since Islam's introduction to Morocco in the seventh century, the overwhelming Muslim majority had

coexisted in perfect harmony with the Jewish minority, the sole religious community that had been there before the rise of Islam. From the time of the Almohad dynasty, there had been contact with the Christian Church at the highest level, in Rome.

121. From the time of the Protectorate, freedom of religion had continued to enjoy the traditional tolerance well established in Morocco; at no time had the principles set forth in the 1789 Declaration on the Rights of Man and the Citizen been invoked. Since independence, freedom of religion, for individuals or groups, was safeguarded albeit within an overall Muslim infrastructure which forbade proselytism.

122. Any violations of freedom of religion, demonstrations or disturbances during services and desecration of graves were considered serious offences against law and order (ordre publique) and severely dealt with, especially if they were accompanied by threats of violence. One example of the clear tolerance was that Christian and Jewish Moroccan citizens could not be prosecuted for breaking the fast during Ramadan, or for the sale and consumption of intoxicating drink, unless offences related to drunkenness were involved. The aim of all such provisions was to reconcile social constraints with the need to respect the coexistence of the various recognized religious communities.

123. There had been Jews living in Morocco long before the advent of Islam and Christianity, and their numbers had increased at the time of the Spanish Inquisition. Their lifestyle, dress and language had become identical with those of their Muslim fellow citizens; and they had lived under the central Government's protection. Everyone remembered Mohamed V's courageous opposition, in 1942, to the Vichy régime and its anti-Jewish laws. Since independence, the Jewish community had been granted broad autonomy in matters such as the conduct of services and teaching. Its members had made an illustrious contribution to the State as ministers, judges and civil servants, for example. They remained permanent Moroccan citizens, under the terms of perpetual allegiance stemming from the 1880 Treaty of Madrid, but had to choose between loyalty to their country of birth and allegiance elsewhere.

124. The true situation of Christianity in Morocco was something perhaps misunderstood by many. The Franciscans had founded a chaplaincy there as early as the fifteenth century. Archbishoprics had been established at Tangiers and Rabat in 1955, on the eve of independence. There were currently two dioceses in Morocco, under Franciscan archbishops.

125. The tradition of close relations between the Muslim and Christian communities had been marked by the visit of the King of Morocco to His Holiness Pope John Paul II in 1982, and by the latter's visit to Casablanca, where he had been greeted by 100,000 young Moroccan Muslims. A Royal Message in 1983 had recognized the Catholic Church's freedom of activity in cultural, legal and educational matters. Places of worship were exempted from tax, and monks could provide aid to prisoners.

126. Morocco, a country on the frontiers of Europe, remained a State of complete tolerance where the great religions of Islam, Judaism and Christianity existed side by side. Religious buildings and festivals were among the constant and widespread signs of that tolerance and freedom which,

together with other public freedoms, formed the material on which the modern State was built, founded on justice and equality. Hebrew and Christian Moroccan citizens enjoyed the same civil, political, economic, social and cultural rights as their Muslim fellow-citizens.

127. Mr. MALGINOV (Union of Soviet Socialist Republics) said that questions relating to freedom of religion, belief and conviction, and the adoption of measures against hatred, intolerance and discrimination on such grounds, had an important place in the work of the Commission and other international bodies. It was no coincidence that, when drafting the International Covenant on Civil and Political Rights, States had agreed that the right to freedom of thought, conscience and religion set forth in article 18 could not be restricted or derogated on the pretext of exceptional circumstances.

128. The readiness of a society to exist and develop in conditions of peaceful understanding among different population groups through dialogue and co-operation testified to the depth and strength of its democratic ideals. Such understanding was the outcome of many centuries of religious strife, hatred and persecution, signs of which were still frequently to be seen.

129. The international community had, for many years, been studying ways in which to eliminate discrimination based on religion or belief; the Commission and Sub-Commission had done much useful work in that regard. The tenth anniversary of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief provided an opportunity to state with conviction that its provisions amply reflected and developed those of the Universal Declaration and the International Covenants. The anniversary also provided a suitable opportunity to refocus attention on that instrument. An information campaign could be promoted, with the participation of non-governmental organizations and religious bodies, at the national and international levels, aimed at persuading Governments to review the extent to which their domestic legislation was in keeping with the provisions of the Declaration.

130. Work along those lines had been carried out in the Soviet Union for several years; relations between Church and State needed to be improved, so that the Church could assume its proper role in society. Over the years, those relations had been complex and varied, including periods of non-recognition and open hostility, and the rights of believers had at times been violated. Firm measures were currently being taken, however, to ensure the exercise of freedom of conscience, in practice as well as in words, and to involve the Church and its followers actively in the process of social transformation.

131. Such measures had culminated in the adoption, in October 1990, of a law on freedom of conscience and religious organization, pursuant to which all citizens could freely choose to practise any religious belief, or none at all, and the State pledged itself to safeguard the rights and interests of citizens regardless of their religious persuasion. The rights and independence of religious organizations had been significantly broadened, and the study of religion was an optional subject at secondary education level in several republics. The law as a whole was in conformity with the provisions of the Declaration.

132. Further legislation was being promulgated or amended in accordance with the new law; the relevant information had been transmitted to the Special Rapporteur. Whilst not wishing to over-emphasize the scope and pace of new developments in that field, since there clearly remained a number of details and difficulties to be resolved, his delegation nevertheless felt that the Special Rapporteur could take the information into account in his next report.

133. In that connection, his delegation continued to support the Special Rapporteur's activities, and felt that his reports for the past two years had become increasingly objective. It would refrain from commenting further, since the report had been issued late, and it hoped that, in future years, the Commission would have a better opportunity to discuss the contents in detail. The Soviet Union would continue to respond to the Special Rapporteur with regard to further developments at the national level. His delegation's interest in that regard was confirmed by its having become a sponsor of the draft resolution to be tabled on the subject.

134. Mr. WIELAND (Peru) said that his delegation would have preferred more time to study the report (E/CN.4/1991/56) submitted by the Special Rapporteur. In the circumstances, it would confine its statement to a few general comments.

135. Intolerance on the grounds of religion or belief was one of the most negative features of human history, chiefly because it had generally stemmed from the deepest of feelings, which made it even more difficult to eradicate. It had not only given rise to persecution but was also an underlying factor of other human rights violations - for example, it often underlay acts of racial, cultural or political discrimination. People so discriminated against were inevitably deprived of many of their basic human rights. His delegation agreed with the Special Rapporteur that the best safeguard against all forms of such intolerance consisted of effective measures by the State to ensure the rule of law.

136. Another serious matter on which the Special Rapporteur had focused was the question of impunity for those who perpetrated acts based on intolerance. The matter had become increasingly serious in recent times, when increased contacts among a wide diversity of nationalities, cultures and beliefs made it essential to respect the beliefs of others if constant strife was to be avoided. His delegation therefore urged the international community to take the necessary steps aimed at eliminating all forms of intolerance as speedily as possible.

137. In that connection, it would help if all States which had not yet done so would indicate their support for the Declaration, and if the United Nations could promote international meetings, with the participation of major religious leaders, to discuss how to bring about conditions in which all would enjoy freedom of conscience, religion and belief. Educational programmes, too, could play a highly important role in that regard. Lastly, he reiterated that, in Peru, such freedoms were expressly guaranteed by the Constitution and domestic legislation.

138. Monsignor MULLOR (Observer for the Holy See) said that the Special Rapporteur's report (E/CN.4/1991/56) painted a picture which, despite negative aspects, nevertheless gave grounds for hope. Although the climate of

religious intolerance, and even persecution, persisted in some countries, in others the situation had begun to change. In the countries of Eastern Europe in particular, freedom of religion was among the liberties being restored, and the effect could already be seen.

139. Freedom of religion was, in the words of His Holiness Pope John Paul II, a cornerstone in the edifice of human rights. Whenever the right to freedom of religion was not recognized, there was no normal democratic life, and justice was usually either lacking or a sham.

140. In his address on the occasion of the World Day for Peace, His Holiness had stressed the theme of respect for the conscience of everyone as essential for peace. He had stated that truth was imposed by itself alone, that the denial of freedom of conscience to others constituted a serious threat to peace; and that intolerance on grounds of religion appeared to be closely linked, in various parts of the world, to the oppression of minorities.

141. Intolerance stemming from a narrow or radical outlook about religious belief often went hand in hand with political intolerance, and a predominant religion was often used in attempts to assert political domination, maintain privileges and even embark on military expansionism. At times, God was invoked in a partial, even blasphemous, way.

142. The Christian churches, too, had gone through such sad events in the course of their history, as had been formally recognized at the Second Vatican Council. As the then Pope had said, as a result of such vicissitudes some of the Catholic Church's representatives had at times acted in ways at variance with the spirit of the Gospel.

143. The Declaration on Freedom of Religion, one of the Council's most significant documents, stated that only freedom of conscience could properly ensure the moral obligation to search for God's truth and sincerely adhere to it. It was right that faith should be nourished and passed on within the family and a society enlightened by its principles. Faith, like conscience or belief, flourished in a climate of social protection; it could not do so in a social vacuum. It was only authentic when exercised in full freedom; any coercion reduced it to the level of ignorance, hypocrisy, fanaticism or superstition.

144. His delegation esteemed it an honour to remind the Commission of that doctrine, and of the wish of the Catholic Church to transform it into a daily reality, as was demonstrated by its readiness to pursue its dialogue with other Christian confessions and with other religions, particularly those whose roots lay in the faith of Abraham: Judaism and Islam. In any predominantly Christian country, freedom of religion was guaranteed to other believers: synagogues and mosques had neighbourly relations with Catholic and Protestant churches. That situation reflected a modern view of society. Christian churches were aware of the growing interdependence of the modern world. An unprejudiced analysis would reveal their commitment to building a fairer and more fraternal world. It was precisely because of the firmness of their faith that the Christian churches had accepted the challenges of the modern world, which included the de facto universality of all religions, and a scrupulous distinction between religious and political matters. All Christian churches were open to interreligious dialogue, and cultivated a sincere respect for all

believers. No believer - other than followers of a few obscure sects whose religious nature was not always apparent - was denied the right to profess his faith in countries where Catholics, Protestants or Orthodox believers were in the majority. Christians were entitled to expect that their open-mindedness should be reciprocated.

145. In the past, religions had often been associated with a specific culture and geographical region. Because of increasing mobility, believers now mingled with followers of other religions, with non-believers and with agnostics. Throughout the world, cultural, economic and financial exchanges took place between countries in which different religions predominated. In a situation of world interdependence, any believer was entitled freely to worship God, wherever he found himself. Religion and society were no longer one and the same. To think otherwise would be to submit to isolation or the the dictatorship of past over present. The message of Pope John Paul II was that, even where a State granted a special legal status to a particular religion, it must recognize in law and respect the right of all citizens to freedom of conscience, as well as that of foreigners resident in its territory even temporarily, for professional or other reasons. To identify religious law with civil law might stifle religious freedom and even limit or deny other inalienable human rights.

146. While the Commission was considering the question of religious freedom, a war was drawing to a close in the Gulf, which some had wrongly seen as a war of religion. His delegation congratulated the delegation of Kuwait on the restoration of normality in that country, and expressed the wish that those biblical lands would become areas of peace in which men could live in harmony. At a time when peace was at last in sight, his delegation expressed its conviction that religion should be invoked in furtherance, not of conflict, but of understanding, and to build a better future free from the cyclical tyranny of war. That was both a spiritual requirement and a response to the modern world, a reaction to the manipulation of religion for political ends. In order to remain human, tomorrow's highly technological world must benefit from the authentic and liberating presence of religion. That need could be met if religion could everywhere be experienced in a context of responsible freedom from which violence and coercion were excluded.

147. Miss CHAALAN (Observer for the Syrian Arab Republic) said that, at a time when the United Nations was playing a key role in efforts to eliminate all forms of intolerance and discrimination based on religion or belief, the Arab region, which had borne the torch of civilization and been the cradle of religion, continued to be the victim of intolerance and racism, through the creation of an entity that hid behind a facade of religion but had nothing to do with religion. Israel had pillaged Palestine in order to set up an entity based on political considerations that were no longer valid, and continued its expansionist and aggressive policies against its Arab neighbours, occupying and annexing their territory in order to subject it to Judaism.

148. One aspect of Israeli intolerance was the notorious "law of return", whereby all Jews throughout the world were granted the right to settle in Israel. On the other hand, the Palestinian Arabs enjoyed no right of return to the territories from which they were expelled in consequence of that law.

Count Bernadotte had remarked on the injustice of a policy of opening the doors of Palestine to foreigners, while Palestinian refugee children, whether Christian or Muslim, were denied the right to return to their homes. As was well known, Count Bernadotte had been assassinated by the Stern Gang.

149. Successive waves of Jewish immigrants to the West Bank, the Gaza Strip and the Syrian Arab Golan, culminating in the latest influx of immigrants from the USSR and elsewhere, attested to the danger faced by the Palestinian Arabs. The policy of occupying those lands, with the clearly expressed intention of keeping them, on the pretext that Jews had occupied part of the territory of Palestine more than 2,000 years previously, was clearly a manifestation of religious intolerance, and called for firm action by the international community. The situation in the Middle East continued to be volatile, and no peace could be achieved while Israel persisted in its policy of religious and racial discrimination and failed to comply with the relevant international instruments and with the United Nations resolutions affirming the right of the Palestinian people to self-determination and to establish an independent State on its own territory, and demanding the withdrawal of Israel from the occupied territories.

150. Since acceding to independence in 1946, Syria had attached great importance to the question of religious intolerance at national and international levels. It had participated in the drafting of the Universal Declaration of Human Rights and of the Charter of the United Nations and had always been in the forefront in acceding to human rights instruments. Syrian legislation guaranteed freedom and equality for all citizens, irrespective of their race or religion. Article 35 (1) of the Constitution guaranteed freedom of conscience and religion, and respect for all religions by the State, while article 35 (2) guaranteed respect for the freedom to practise any religion. The Penal Code provided for penalties of between six months' and six years' imprisonment for offences involving religious intolerance or infringement of religious rights. Those provisions clearly demonstrated the will of the State to guarantee and encourage harmonious relations. The Syrian Arab Republic was proud that no discrimination existed between Jewish, Christian and Muslim citizens, and that all those fleeing persecution were welcome. Any attempt to distort that fact was doomed to failure.

151. Mr. HENNESSY (Observer for Ireland) commended Mr. d'Almeida Ribeiro, the Commission's Special Rapporteur on religious intolerance, for his careful and well thought-out approach to the realization of his mandate. His first report had noted that intolerance based on religion or belief occurred in varying degrees in nearly all regions of the world; later reports had contained accounts of situations in specific countries. It was encouraging to note that many Governments were responding to his requests for information. Nevertheless, there remained room for improvement.

152. The report (E/CN.4/1991/56) highlighted the variety of manifestations of religious intolerance, ranging from outright persecution involving physical assault, through discriminatory legislation, to disregard for national laws. Religious differences often served merely to mask deeper economic, social or cultural divisions. Because of those wider associations, and because religious conflict was regrettably often coupled with indiscriminate violence, his delegation strongly supported the conclusion that the situation with regard to religious freedom had a direct bearing on the enjoyment of human

rights in general. It had read with dismay the Special Rapporteur's finding that many persons continued to be detained in prison for religious reasons, and were in some cases subjected to torture and ill treatment. It urged the Special Rapporteur on torture to pay particular attention to cases of that kind, and suggested that the two rapporteurs consult, so as to ensure that their common concerns were pursued to maximum effect.

153. His Government had repeatedly made clear the importance it attached to the creation of a climate inimical to discrimination. Legislation and its effective implementation were essential in that regard. More specifically, education and training for tolerance were needed. That was why the draft resolution which his delegation would introduce at the current session emphasized the importance of the formation and instruction of security officials, public servants, teachers and others whose conduct impinged on the effective enjoyment by individuals of their rights and freedoms in that area. As the Special Rapporteur pointed out, the best guarantee for the respect of religious rights and freedoms was the efficient functioning of democratic institutions and the rule of law.

154. It was thus hardly surprising that in the countries of Eastern Europe where Governments founded on those principles had recently been established, dramatic progress had been made in protecting the rights of all religious communities. His delegation welcomed the important legislative changes made in the Soviet Union, and particularly commended Bulgaria for the comprehensive replies it had provided in the context of the Special Rapporteur's report. It hoped that all countries in the region would take steps to consolidate the new freedoms in their legal systems.

155. The tenth anniversary of the adoption of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief provided an opportunity for Governments and non-governmental organizations to consider what further measures might be taken at national and regional levels to promote effective implementation of the Declaration. He called upon the Centre for Human Rights and the Department of Public Information to promote the widest possible dissemination of the Declaration in the anniversary year and in the years ahead.

156. Mr. Amoo-Gottfried (Ghana) took the Chair.

157. Mr. LACK (World Jewish Congress), speaking also on behalf of the Co-ordinating Board of Jewish Organizations, said that the report contained in document E/CN.4/1991/56 was an important contribution to the conclusions and recommendations submitted by the Special Rapporteur in his previous reports on religious intolerance and discrimination. It raised the question whether there was not a need for improved standard-setting and more effective measures to ensure respect of the principles contained in articles 18 of the Universal Declaration on Human Rights and of the International Covenant on Civil and Political Rights, and in the 1981 Declaration itself. In particular, his organization supported the recommendation that more determined efforts should be made to combat deep-rooted attitudes of discrimination and intolerance, and the conclusions contained in paragraph 107 of the report. It especially welcomed the Special Rapporteur's reiteration of the desirability of drafting a special convention on religious freedom, going beyond the 1981 Declaration.

158. His organization continued to believe that the reasons militating in favour of drafting a binding instrument to combat religious intolerance far outweighed those adduced against so doing, which were based on administrative and financial considerations, on the fear of complexity and delay, and on anticipation of opposition from certain sources. A historic opportunity was being lost, and divisiveness on the issue was being encouraged by lack of resolve and the international community's failure to comprehend the threat overwhelmingly confirmed by current events. Incitement to hatred and violence on an unprecedented scale by the deliberate and cynical distortion of religious values and provocation of extremism, inter alia, through exploitation of the media to achieve political and military goals, was one of the most terrifying developments on the contemporary scene. While the phenomenon might have more complex causes, the exploitation of intolerance and discrimination based on religion or belief was a serious factor in destabilizing societies where religious passions ran high. Education for tolerance and mutual respect on a long-term basis must be encouraged in parallel with standard setting and effective implementation. That, however, was no reason for delaying the drafting of a convention, the need for which had been recognized by the General Assembly nearly three decades earlier.

159. His organization welcomed the recent adoption by the Supreme Soviet of the USSR of the law on freedom of religion or belief. Its provisions appeared to be in conformity with international standards. His organization had also expressed its concern at the resurgence in the USSR of incitement to racism and hatred by the followers of the Pamyat' nationalist movement and similar associations. It had been assured by the competent authorities that such cases of anti-Semitism were being vigorously prosecuted. However, a resurgence of xenophobia and racism had also been noted in other countries and regions. For that reason, he also welcomed the action of the 34 States of the Conference on Security and Co-operation in Europe, expressed in the Copenhagen concluding document of June 1990 and the Paris Charter of 21 November 1990, expressing the determination to combat all forms of racial and ethnic hatred, anti-Semitism, xenophobia and discrimination against anyone as well as persecution on religious and ideological grounds.

160. In closing, he referred with great regret to an incident that had occurred during the Commission's current session, on the afternoon of 8 February. A hideous anti-Semitic canard, reviving the notorious medieval blood libel that had reappeared in 1840, had been repeated and affirmed by the Syrian representative as if it were a historical truth. Since then, the Syrian delegation had circulated a letter addressed to the Centre for Human Rights, dated 19 February 1991 (E/CN.4/1991/80), denying that that statement had been anti-Semitic, or that there had been any discrimination against Jews. The Commission would have noted that that letter explicitly repeated the contents of the statement verbatim and urged members of the Commission to read the scurrilous publication entitled The Matsa of Sion, as a "very important work that demonstrates unequivocally the historical reality". Under the laws of many member States, that statement and the written communication repeating it, if made in public without the protection of parliamentary or equivalent privilege, would have been the subject of a criminal prosecution. As his organization had stated in a previous communication to the Commission (E/CN.4/1988/NGO/24), the advocacy of such views, in particular in United Nations forums, constituted a deliberate incitement to religious hatred, and adversely affected the reputation and authority of the United Nations, and notably of the Commission. He trusted that the statement would be vigorously condemned by the Commission and its members.

161. Miss ALI (International Organization for the Elimination of All Forms of Racial Discrimination - EAFORD) said that she was 11 years old and had come to France when her parents had fled the exactions of the Iraqi régime. For the last three years, she had lived in Ferney-Voltaire. Since October 1990, she had been banned from her school, the Lycée International in Ferney-Voltaire, because she wished to wear the headscarf which was a symbol of her Islamic faith. She and many other Muslim schoolgirls were now obliged to attend private schools.

162. The French Council of State had decided in November 1989 that the wearing of a scarf could only be forbidden if it was done deliberately to provoke and to undermine the smooth running of an educational institution. She wore her scarf from personal religious conviction because it was a symbol of respect for a Muslim woman, not out of any wish to proselytize or undermine the secular nature of the school. For two years, she had worn her scarf at primary school, even during gymnastics lessons, and no one had objected.

163. She felt herself to be a victim of religious intolerance. The denial of her right to education had reduced her chances of social integration. She had been separated from other local children and condemned to isolation: she felt excluded from society.

164. Ms. SLESZYNSKA (Christian Democrat International) said that, despite the many positive developments in the world, intolerance and discrimination still persisted. The renunciation of the doctrine of State atheism in many Eastern European countries had brought considerable advances in religious freedom. However, a number of religious conflicts, based on long-standing secular or nationalist antagonisms, had flared up during 1990, including the disputes between the Russian Orthodox Church and Eastern Rite Catholics in the Ukraine, between Azeri Muslims and Armenian Christians and between Orthodox believers and Eastern Rite Catholics in Romania.

165. In other cases, the Orthodox Church had shown signs of opposing the rights to existence of other religions. In Bulgaria and Romania, it had put pressure on the new Governments not to recognize the Evangelical Alliance. In Greece, it was behind many attempts to prosecute members of other religions, particularly Jehovah's Witnesses, under a law dating from 1938.

166. Even though Mexico was a secular State, relations between Catholics and Protestants had deteriorated sharply. In 1990, two Evangelical preachers had been stoned to death, and many other non-Catholics had been attacked. Those acts of violence arose from a climate of intolerance, which was fostered by certain elements on the pretext of preserving Latin American culture. Hundreds of Chiapa Indians, who had converted to the Protestant faith, had been expelled from their ancestral lands.

167. In Cuba, the only communist country in Latin America, religious activity could only take place inside a church. Religious faith was considered ideologically unsound and noted on the believer's school or work record.

168. Her organization had noted a number of common features in the attitudes of many Arab and Muslim countries, including the member States of the Organization of the Islamic Conference and the Asian republics of the USSR. Believers of religions other than Islam were not allowed to practise their

faiths, a fact highlighted recently by the presence of Christian troops in Saudi Arabia. Non-Muslims were often forbidden to preach their religion, and were treated as second-class citizens. Muslims were not allowed to convert to other religions. There was a tendency to impose Islamic law on all citizens, including non-Muslims.

169. Some countries prescribed the death penalty for people who preached religions other than Islam or wished to convert from Islam. In other countries, such as the Islamic Republic of Iran or Egypt, people guilty of such offences were imprisoned. Even in a secular State like Turkey, social pressure made it almost impossible for people to convert from Islam. In Pakistan, a federal tribunal had invoked Sharia law to justify the death penalty for cases of "blasphemy". There were also cases of religious conflicts, for instance in Egypt between fundamentalist Islamic groups and the Coptic Christian minority, and in the civil war in Sudan.

170. Other situations of intolerance and discrimination were to be found in the Hindu world (conflict between Hindus, Sikhs and Muslims in India, for example), in some African countries where there were several principal religions, and in the Buddhist State of Sri Lanka. Happily, however, more than 200 people in Nepal, who had been imprisoned for wishing to convert from the Hindu religion, had been freed by amnesty, and the Constitution had been made more liberal. Nevertheless, the campaign to make Nepal into a secular State had not yet succeeded.

171. The examples she had given showed that infringements of religious freedom were not confined to atheist régimes; they were also a danger in countries where Church and State were not separate. The religions themselves did not generally preach intolerance. On the contrary, most of them called upon believers to love everyone. Religious intolerance grew from a biased interpretation of the believers' religion or from political interests. The entire human community must work together to put an end to religious intolerance and discrimination. Churches or religious groups and Governments must therefore play a prominent role in religious pacification through education in democracy and in human rights, and by promoting equality for all citizens, whatever their religion.

172. Mr. TEITELBAUM (American Association of Jurists) said that many factors - social, economic, political, cultural and historical - were involved in the phenomenon of racial and religious intolerance. A number of delegations had protested at the racist statements made by the representatives of the Syrian Arab Republic: his organization believed that that kind of racism, which existed not only in Syria, but in other Middle Eastern countries, was used by despotic Governments, to inspire loyalty in their peoples, who were deprived of their civil and political rights and lacked even a minimum of prosperity. On the other hand, the Israeli Government's opposition to a peace dialogue with its Arab neighbours had encouraged both racism against Arabs in Israel and racism against Jews in Arab countries.

173. Intolerance and racism were to be found in other parts of the world as well. At the end of the Second World War, the few Polish Jews who had survived returned to Poland, which had a long tradition of anti-Semitism. Some of them were murdered as soon as they arrived, and others were the victims of pogroms in 1946, some of which broke out because of a rumour that

Jews had murdered a Christian child and drained its blood. Even in 1990, the presidential election campaign had taken place in a climate of anti-Semitism, and references had been made to the fact that the mother of one of the candidates had been Jewish. The whole world had remarked upon the anti-Semitic tone of the speech made by the Primate of Poland, Cardinal Glemp, in August 1989 in Czestochowa.

174. Many Governments shirked their responsibility to combat racial and religious intolerance, and some even encouraged it. In Western Europe, employment problems were falsely attributed to the large numbers of migrant workers. Support for the policies of Jean-Marie Le Pen in France continued to grow, and attacks by racist groups against Arabs, particularly North Africans, were becoming more and more common and were often condoned by racist elements among the police. Although the French authorities had taken a number of measures to combat the problem, he wondered whether the reforms they announced were actually carried out in practice.

175. In many countries, the measures to combat illegal immigration had assumed the proportions of a war; there was even talk of using the armed forces to expel illegal immigrants. Such an attitude, even if it was not deliberate, was bound to engender an atmosphere of intolerance.

176. The case of Miss Ali, who had addressed the Commission a few moments before, was further evidence of the growing religious intolerance in Europe. After she had been banned from attending school for wearing her scarf, the school rules had actually been changed to forbid the wearing of any religious, political or philosophical symbol; Miss Ali's conduct was clearly not designed to undermine the smooth running of the school, which was one of the criteria laid down in the Council of State decision of December 1989. The hundreds of people who had signed a petition calling for her readmission to the school offered a lesson in broad-mindedness and tolerance which the French educational authorities would do well to take to heart. A secular school should be a place where differences between the people were respected in an atmosphere of tolerance and brotherhood.

177. Mr. BARSH (Four Directions Council) said that his organization had always placed high priority on the religious freedom of indigenous peoples. He was therefore somewhat reluctant to complain that information his organization had submitted to the Special Rapporteur on the question of religious intolerance over the past two years appeared to have been ignored.

178. In 1988, his organization had written to the Special Rapporteur about a court decision in the United States of America, which authorized logging in an area of California which was a traditional sacred site of the Hoopa tribe. The Special Rapporteur had contacted the United States Government which had claimed that the decision applied only to State-owned land and that explanation had appeared in the 1989 report. His organization had written to the Special Rapporteur to tell him that the land in question had been confiscated from the Hoopa tribe after the United States Congress had refused to ratify a treaty with them and had asked the Special Rapporteur to pursue the matter. However, the issue had not been raised in the Special Rapporteur's 1990 report (E/CN.4/1990/46) and, on further inquiry, the Secretariat had told his organization that the information had never been received in Geneva. He

had sent a copy, along with details of another recent United States court decision limiting the ceremonial use of medicinal plants by indigenous peoples. However, the information had not appeared in the Special Rapporteur's next report, either (see document E/CN.4/1991/56).

179. His organization felt that no Government should be exempt from the Special Rapporteur's inquiries; nor should any Government's explanations be accepted without question if there was evidence to disprove them. The Special Rapporteur must apply the same standards and the same procedures to all countries.

180. That disappointing experience had led his organization to question the effectiveness of all the Commission's thematic work. Thematic reporting was an efficient way of gathering information, more focused and far less expensive than the periodic reporting by countries under the human rights treaties. The information contained in thematic reports was much more analytical than that in periodic reports submitted by governments. The thematic work produced an enormous amount of information, which seemed to have overwhelmed the staff at the Centre for Human Rights; many of the thematic reports at the current session were much too long and disorganized to be valuable and, moreover, they were submitted very late.

181. The enormous growth in the Commission's thematic work could be tackled by employing more staff. However, the question of effectiveness still remained. When a thematic rapporteur had identified a real problem, the response from the Commission was usually one of silence. Occasionally, the Commission might mention religious intolerance in a resolution referring to a particular country, but there was no way of contributing to a solution. A link between the thematic procedures and international co-operation programmes might provide help with mediation, community relations, education and even development assistance and thus give Governments real and practical help. Such an approach would require a sound historical analysis of the problem in each country, rather than a description of its current manifestations. In future, any additional resources should be devoted to an analysis of country situations and the establishment of a positive response, rather than the drafting of new instruments or theoretical studies.

182. One example of the kind of problem which such an approach might resolve was the proposed relocation of the Navajo and Hopi people in the south western United States of America. The Sub-Commission on Prevention of Discrimination and Protection of Minorities had studied the problem for several years, but had reached no conclusions.

183. For indigenous peoples, the question of religious freedom could not be separated from land rights. The land was their religion; they studied their religion by living on the land and practised it by using the land as they had been taught. All of the land was sacred to them, and they could practise it nowhere else.

184. In two recent court cases, the Navajo people had challenged attempts to move them on the grounds that it would destroy their sacred places. The situation was complicated by a dispute between two elements of the Navajo tribe, one of which was in favour of relocation. In both cases, the courts had decided that the Government should consider the Navajo's religious

concerns before deciding about relocation. In one of them, the Government had, indeed, considered the Navajo's religious beliefs, but had not thought them sufficient reason to abandon the relocation. Government officials were now fencing the land off and taking away the people's livestock.

185. In the summer of 1990, the Navajo and Hopi people of several communities had asked the Sub-Commission to find an independent mediator who would help them to solve the dispute between them, so that they could continue to live together on their land. However, the Government of the United States of America had strongly opposed the plan, and the Sub-Commission had taken no action other than to reiterate its previous expressions of concern about the situation. He called upon the Special Rapporteur on the question of religious intolerance to help all the parties concerned to find a solution to the problem and gain the co-operation of the United States Government. Both sides believed that community mediation could work and had called upon the United Nations to provide the necessary technical assistance.

186. Mr. FERNANDEZ (International Organization for the Development of Freedom of Education) said that the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief and many other human rights instruments established the right of all children to receive a religious education in accordance with their parents' wishes. Unfortunately, however, even democratic countries came nowhere near respecting that right. Genuine pluralism called for more than mere lip service; it required positive action on the part of Governments. States should establish educational centres and, in particular, they should make available to parents the economic resources to establish schools in accordance with their religion or beliefs. Such a policy was the best way to establish a healthy pluralism which would preclude religious intolerance. A democratic society could not be built without respect for individual rights, and particularly for the freedom of religion.

187. Many States feared that excessive freedom of religion would breed intolerance or affect the national identity. However, the experience of pluralist democracies with a liberal education system showed that the integration of individuals from other traditions could be achieved successfully.

188. Mr. ROSSI (International Association for the Defence of Religious Liberty) expressed his association's sincere appreciation and gratitude to the Commission for the efforts it was making to eliminate all forms of intolerance and of discrimination based on religion or belief.

189. It welcomed the remarkable results which had already been achieved, more particularly in the countries of Eastern Europe. In the field of religious liberty, the régime in those countries had changed from one of intolerance to one of freedom and most had already adopted or were about to adopt new legislation guaranteeing full freedom of conscience and religion in accordance with the principles laid down in relevant United Nations instruments. Even Albania, the only country which had totally denied the right to religious freedom, had radically changed its attitude in that regard. A new Constitution recognizing and expressly guaranteeing that right was in the process of preparation.

190. While welcoming the positive attitude shown by the authorities of those countries in favour of religious liberty, his association stressed that the Commission should not diminish but rather intensify its efforts to eliminate religious intolerance in the world. In that connection, he referred to the latest report of the Special Rapporteur (E/CN.4/1991/56) in which it was stated that incidents and governmental actions inconsistent with the Declaration had persistently occurred in most regions of the world. Account must also be taken of the serious threat posed by the rise of secular and religious fanaticism. The major religions and philosophical movements had included and still included fanatical minorities. All forms of fanaticism, fostered by outmoded traditions and intolerance in flagrant violation of specific human rights universally recognized and proclaimed in United Nations documents, must be opposed.

191. Since the proclamation of the Declaration in 1981, the Commission and the General Assembly had adopted numerous resolutions urging States to provide the necessary constitutional and legal guarantees with a view to ensuring respect for the freedom of thought, conscience and religion. Unfortunately, and precisely because of the rise of fanaticism, a number of States had done nothing to improve their legislation and others had even restricted that freedom.

192. He wished to mention two of the more serious cases recorded, which concerned two Islamic countries. In that connection, he stressed that his statement should in no way be regarded as an attack against Islam or Muslims. During a recent visit to Algeria, Tunisia and Morocco, he had met a number of governmental, religious and university personalities who had indicated their support for human rights and dialogue. However, the representatives of Islamic movements whom he had also met had reaffirmed their concept of an Islam based on outmoded traditions and disrespectful of the right to freedom of conscience and religion.

193. The first case concerned the Islamic Republic of Mauritania, which in 1983 had adopted a new Criminal Code, article 36 of which stipulated that any Muslim guilty of the crime of apostasy would be invited to repent and that if he did not do so within a certain period of time, he would be sentenced to death and his property confiscated. The Criminal Code also provided that any adult Muslim who refused to pray while recognizing the obligation to pray, would be invited to comply within a certain period of time. If that person persisted in his refusal to do so, he would be executed. Those provisions were clearly inconsistent with article 18 of the Universal Declaration of Human Rights and with the Koran. To oblige a person to practise a particular religion or to carry out certain rites was tantamount to denying the right to freedom of conscience and religion. The Muslims of Mauritania, like all other Muslims and every human being, had the right to enjoy full respect for their freedom of conscience and religion and that right should be recognized by their legal system.

194. The second case concerned Saudi Arabia, the only country in the world where all religions, with the exception of Islam, were prohibited, a country which supported morally and financially Islamic movements in various parts of the world. Some 3 million migrant workers constituting two thirds of the active population lived in Saudi Arabia. Many of them professed a religion other than Islam. The authorities prohibited them from having meeting places

and from benefiting from the assistance of a minister of religion. Such a position was a flagrant violation of the right to religious freedom. It was also contrary to the teaching of the Prophet Muhammad who had recognized that Jews and Christians should be free to practise their religion and, on another occasion, had allowed a delegation of Christians visiting Medina to hold their religious service within his mosque. Yet Medina was precisely in Saudi Arabia.

195. Many of the soldiers of the allied forces in Saudi Arabia at the present time had a different religion from Islam. It was inadmissible that those soldiers had risked their lives and in some cases lost their lives to help a country which denied religious freedom to their fellow believers.

196. The Commission could not continue to ignore flagrant and massive violations of human rights in Saudi Arabia without losing its credibility.

197. In conclusion, he expressed the hope that the delegations of the United Kingdom and the United States of America, which were well aware of the situation in Saudi Arabia, would take a position on the subject and use their influence with the authorities of that country to ensure that religious liberty was respected there.

198. Mr. RETUREAU (World Federation of Trade Unions), referring to article 6 (d) and (i), said that the question of attacks against the freedom of organization and expression had often been mentioned in the past in relation to certain countries of Central Europe and that he wished to draw attention to a disturbing situation concerning his organization's ability to continue its activities from its headquarters in Prague.

199. A decision taken by the Government of the Czech and Slovak Federal Republic for no serious reason had called on his Federation to terminate its activities and to close its headquarters in Prague by 30 June 1991. His organization had appealed against that injust and discriminatory decision and hoped that the Government would reflect on the consequences of that decision and cancel it.

200. His organization had always respected the internal law of the host country and would continue to do so. The World Federation of Trade Unions was a democratic, representative and internationally recognized organization. It was independent of Governments, political parties, employers and churches. When the military forces of several member countries of the Warsaw Pact had intervened in August 1968, his organization had condemned that intervention and in so doing had risked its independence. A number of its member organizations had maintained relations with the representatives of Charter 77 and had supported them. WFTU had helped to put an end to the confrontation of military blocs. It had supported the Helsinki Accords and contributed to their development and implementation.

201. The decision of the Czech and Slovak Government was a cold war decision which constituted flagrant interference in the functioning of a non-governmental organization with 196 members in 83 countries throughout the world.

202. With regard to the recent CSCE summit meeting in Paris, he recalled that the signatory States had reaffirmed their commitment to facilitate the work of non-governmental organizations to a greater extent in the future. The obligations of those countries to non-governmental organizations were set out in a European Convention of 24 April 1986 on the recognition of the legal personality of non-governmental organizations. The Czech and Slovak Federal Republic, which had recently become a member of the Council of Europe, should bring its practices into harmony with the obligations it had thus assumed. The Council of Europe reaffirmed that it was a community that respected human rights and the principles of democracy. His organization had informed the executive bodies of the Council of Europe of the situation and had requested it to envisage making representations to the Czech and Slovak authorities so that they would reconsider their position.

203. His organization regretted that despite the efforts it had made, the Government persisted in its intention. An organization as large as WFTU could not be expelled on such short notice without serious consequences for its activities. The implementation of that arbitrary decision would place his organization in a position where it would be unable to work. If that was the objective sought, then it was in conflict with the principles proclaimed by the Government in the matter of public freedoms.

204. His organization would resist such arbitrary action and lack of respect for the autonomous nature of non-governmental organizations. It was part of the United Nations family and would fight injustice through legal means, through appeals to the international community and the solidarity of other non-governmental organizations. It had already received statements of solidarity from a number of other trade unions and called on all persons and organizations of good will, the signatory countries of the Helsinki Accords and the Paris Charter, to help it to persuade the Government of the Czech and Slovak Federal Republic to reconsider its decision.

205. Ms. FARHI (International Council of Jewish Women) said that intolerance and discrimination not only continued to exist but that dangers from the past, such as nationalism, fascism, populism and anti-Semitism, were emerging after a long period of peace during which internationalism had appeared to be the common goal of countries. The ground swell from the Eastern countries had led the world to hope for the victory of democracy. While it was true that the progress achieved in several countries which had rid themselves of totalitarianism could be welcomed, it was none the less true that many other signs in those same countries indicated at the present time a nationalist outburst of intolerance and discrimination in all fields including those of religion and of belief.

206. However, countries with a long tradition of democracy were also threatened. Indeed, in the countries of Western Europe, the disappearance of the social issue had made possible the re-emergence of the national issue. Through the combined effects of a half-century of economic growth and the end of the socialist utopia, there were no longer any myths which helped to consolidate the social classes. Therefore, the concept of nation had returned and would undoubtedly predominate in the years to come. If that concept was not controlled intelligently by democratic forces, and was exploited by extreme right movements, the result might be an increase in intolerance towards all immigrants and minorities.

207. The nationalist idea was found not only within societies but also at the international level. Nationalist concepts were frequently accompanied by fanaticism in the religious field and resulted in confrontation and lack of understanding between States or groups of States.

208. The causes of intolerance and discrimination based on religion or belief were complex and even interdependent. They were frequently social and political in nature. However, there was no doubt that one of the main causes was to be found in ignorance and prejudices. In that connection, she said that prejudices originated by definition from an ignorance of the basic tenets of the religion of others.

209. Her organization had been shocked by the anti-Semitic remarks made in the Commission three weeks previously by the Syrian representative. Waving a book which she had recommended members to read, that representative had claimed that the facts which it contained and which accused the Jews of so-called ritual murder at Damascus in 1840 were historical truths confirming the racist nature of zionism.

210. Her delegation wondered whether it was necessary in the twentieth century and in the Commission on Human Rights to have to refute such ineptitudes. She asked whether it was really necessary to recall that the Damascus affair had been nothing more than a political intrigue relegated to oblivion long ago.

211. It was odd that the comments of the delegation of Syria were to be found in document E/CN.4/1991/80, addressed by the Permanent Representative of Syria to the Centre for Human Rights, whereas the text claimed to demonstrate that the statements were in no way anti-Semitic. The fact was that the text clearly involved flagrant anti-Semitism and of a type which her organization thought had disappeared with the end of the Middle Ages.

212. With regard to the rosy picture painted in the same document concerning the situation of Jews in Syria, she said that the community in question consisted of nearly 4,000 persons living generally in ghettos under oppressive surveillance by members of the secret police. Their identity cards indicated their religion.

213. Her organization was particularly concerned about three problems. First, for several months, six members of that community had been incarcerated in extremely difficult conditions. They had allegedly been tortured and had no means of defence. Recently, six others, including a pregnant woman, had been imprisoned. The second problem concerned the enforced separation of families. In Jewish families, some had been able to leave for the United States but their children had remained behind as hostages in order to ensure the return of their parents. Although 25 families had finally been reunited in 1989, there were still 70 others that remained separated. The third problem involved 200 to 250 young Jewish women who desperately wished to leave the country in order to be able to marry and to set up a household, which was impossible in Syria in view of the small number of young men in their community.

214. In conclusion, she referred to the right to leave any country, including one's own, stipulated in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, and appealed to the

Syrian authorities to reconsider their policy concerning the three problems mentioned in a spirit of justice and respect for human rights. Such respect meant equitable treatment for all their citizens without regard to race or religion.

215. Ms. GAER (International League for Human Rights) said that those replying to date to the questionnaire circulated to Governments by the Special Rapporteur had painted a rosy picture of legal protection and lack of conflicts among religious groups. Only a few had the candour of Yugoslavia, which referred to religious pressures and the need to revamp constitutional and other measures of protection in order to promote tolerance and respect for religious rights.

216. In the past, the Special Rapporteur had noted that the infringement of religious freedoms usually resulted in infringements of other human rights, including extrajudicial killings in clashes with other religious groups or even with other security forces. In that connection, her organization wished to draw attention to communal clashes in India, for example between Muslim and Hindu communities, which revealed the degree to which religious intolerance continued to exist and was interlinked with other rights. That conflict should cause members to consider carefully the role of non-State actors, including the religious communities themselves, in such clashes.

217. In China, not only had believers been arrested but there had also been religious-linked clashes and killings in the Xinjiang province and in Tibet. The Chinese Communist Party had long fought against religion. In addition to Confucianists, Taoists and Buddhists, there was a substantial Muslim minority among the Hui and Uighur, the second and third largest nationalities. Although freedom of religion was formally permitted under the Constitution, religious associations had had to sever all their foreign links, give up their land to the State and renounce their charitable functions. Controversies had come to a head during the Cultural Revolution, when religious belief had been directly suppressed. In Muslim regions, any person seeking acceptance into the Communist Party had been required to raise pigs and eat pork. Virtually all convents in Tibet had been destroyed and Tibetans had been forced to participate in their destruction. Broad and vague limitations still existed in Chinese legislation and some had been strengthened in 1991. Communist party cadres were forbidden to be religious believers, and that meant that minority cadres, whose profession of religion was often part of their national identity, had, in effect, to give up their nationality. If they practised their religion they would be isolated from the power structure. It had been reported that one of the immediate causes of the demonstrations that had taken place in Baren township, Xinjiang province, in April 1990, and which had led to the killing of at least 22 persons by the Chinese army, had been the restrictions on religious belief and practice imposed in the region, and in particular the closing of local mosques and schools and the refusal to permit the building of mosques. It had been stated in a broadcast on Xinjiang television that a true Communist would never profess a religion and that the fact that the Communist Party of China advocated freedom of religious belief did not mean that a party member was permitted to do so. Such religious repression had created national resentment and fomented national outbursts in the north-west provinces of China.

218. A new set of religious regulations, which had been officially adopted in September 1990, contained among its restrictive provisions the prohibition of any meeting of Muslim clergy with foreign religious organizations, of any action to oppose the Chinese Communist Party and of the use of religion to challenge China's stringent birth control policy.

219. Unless and until steps were taken to correct such blatantly discriminatory practices, and until the Government sought more conciliatory means of solving problems and disputes than by the sending of tanks and troops with instructions to use lethal force, further outbreaks of ethnic and national violence were likely. The official Chinese position was that the events in Baren township in 1990 had not been related to nationality problems or religious policy but only to so-called reactionary divisiveness, the alleged misuse of religion for separatist or anti-communist purposes, and foreign influences. Several thousand new arrests in the region had since been reported, when local people had carried posters bearing such slogans as "Religion should override Marxism-Leninism" and "We just want to oppose socialism", thus challenging the four cardinal principles of the Chinese Constitution by suggesting that the monopoly of power and the unitary State party system might be broadened to admit alternative political parties and institutions. In the light of the changes in Eastern Europe, in which the monopoly of the Communist Party had been declared invalid and a violation of human rights, and had actually been eliminated from the Constitution, the Xinjiang slogans appeared to reflect local grievances and a call for enjoyment of the basic human rights of religious freedom, freedom of conscience and the right to express alternative political views.

220. It might be helpful if the Special Rapporteur on Summary or Arbitrary Executions could be invited to look into the events in the region. The Special Rapporteur on Religious Intolerance could also usefully examine the tensions involving religious freedom in the area.

221. Mr. HAMERMAN (International Progress Organization) said that, in the United States, there was an increasing pattern of prosecution and harassment of individuals and associations because of their political and philosophical beliefs. That infringement of human dignity violated both the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief and the Universal Declaration of Human Rights. While the United States Constitution and laws set forth model protection provisions, the United States and State Governments had in practice singled out individuals and associations whose philosophical and political beliefs placed them in opposition to government policies. Those policies had included operations against Martin Luther King and his followers and against minority elected officials who had raised hopes of economic and social justice at a time when the Government was obsessed with austerity; action against anyone who challenged neo-colonialist adventures in the developing world such as those in Viet Nam, Panama and the Gulf; prosecution of people opposed to wholesale euthanasia and abortion; and massive judicial abuse against the movement associated with Lyndon H. LaRouche, Jr., the philosopher, politician and economist, who had been a political prisoner for over two years.

222. Lyndon LaRouche was the founder and leader of a philosophical and political association whose beliefs centered on the right of all peoples to development and economic justice. In his efforts to introduce those beliefs into the political process, he had met with furious opposition from people in

government who were promoting genocide, economic injustice, disproportionate misery and social disadvantage for the developing sector and the poor. Government action against Mr. LaRouche and his associates had included the closing down of publications, banning of a free political action committee, large-scale police raids, seizure of bank accounts and records and the imposition of virtual life sentences on a number of people. Specific violations included violations of the right of an individual to produce publications according to his beliefs; of the right to collect and receive voluntary financial and other contributions from individuals and institutions; of the freedom of an individual to manifest his belief and to enjoy and propagate that belief in all fields of civil, economic, political, social and cultural life; of the right to establish and maintain appropriate charitable or humanitarian institutions; and of the right to maintain communication with individuals and communities at the national and international level.

223. Nearly a thousand prominent international and American jurists and human rights scholars had publicly condemned the abuses by the United States Government in the LaRouche case. In 1990, his organization had endorsed a complaint of human rights violations filed by the International Commission to Investigate Human Rights Violations and, at the CSCE Conference on the Human Dimension, Ramsey Clark, the former United States Attorney General, had declared that the indictment of Lyndon LaRouche, following years of press vilification for his beliefs, had been an attempt on the part of the Government to use its power of prosecution to manipulate the political process, since his indictment had taken place three weeks before a presidential election, in which he would have had a right to run.

224. In a memorandum submitted by his organization in connection with the complaint made in the LaRouche case under the procedure provided for in Council resolution 1503 (XLVIII), reference had been made to the rush to trial within 38 days after indictment; the appointment of jurors, selected from government employees of the FBI, the Department of Justice, the CIA and the secret emergency government apparatus which Mr. LaRouche had criticized; the exclusion of evidence that could prove that there had been a frame-up and harassment on the part of the Government; and the passing of excessive sentences for crimes usually regarded as minor civil or administrative infractions. Such a pattern of basic human rights violations was characteristic of the retaliatory justice which Governments reserved for those whom they deemed politically or philosophically dangerous.

225. The non-conventional, or "dissident" idea could often solve problems more humanely and efficiently than was done by State policy. For example, in 1975, Mr. LaRouche had visited Baghdad and proposed a programme for the greening of the desert through a large-scale regional project based upon co-operation between the Iraqi, Israeli and Palestinian people and others in the area. Following initial favourable reaction among Arabs, Israelis and Palestinians, the persons in the United States Government who had later indicted Mr. LaRouche had opposed the proposal.

226. The International Peace Organization called upon the Commission and the Special Rapporteur to investigate those matters thoroughly and speedily and to make a full investigation into the increasing infringements of the right to freedom of thought, conscience and belief and of the principle of equality before the law.

227. Mr. KARUNAN (Pax Romana) said that his organization had consistently expressed its concern on the item under discussion, particularly with respect to cases of violation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. Continued religious intolerance and denial of religious freedom pervaded many parts of the world and was often the basis of national and regional conflict. His organization, which strongly opposed the trend towards religious fundamentalism leading to hatred and violence, was committed to protecting the rights of citizens to practise their religious beliefs in harmony with all other religions, cultures and traditions, thereby helping to strengthen individual and collective freedom and the protection and promotion of human rights. The right to religious belief was not merely the right of thought, belief and conscience but also the right to act in society on the basis of social and religious convictions that contributed towards world democracy and justice. In so acting, however, committed Christians and persons of other faiths had often been subjected to intimidation, harassment, arrest and even death.

228. In China, following the Tiananmen Square massacre in 1989, a number of Catholic bishops, priests and religious lay persons had been officially reported arrested and imprisoned. Reports indicated that the arrests might have taken place in implementation of policy directives in a document in which it was stated that a differentiation should be made in dealing with those "willing to accept the Party and the Government's leadership" and those "who engage in confrontational activities and instigate Catholics to perform acts destructive of the social order", and which had called on the clergy and others to protect the sovereignty of the State from the "organized counter-revolutionary force" into which the so-called underground church had developed with assistance from abroad.

229. Article 36 of the Chinese Constitution established the right of freedom of religious belief. In January 1991, the General Secretary of the Chinese Communist Party had warned against "hostile foreign forces" seeking to infiltrate China under the pretext of religion. In a discussion with leaders of the five main religions, he had said that the authorities would step up their administrative management of and supervision over the implementation of laws, regulations and policies related to religion. The Hong Kong Catholic Justice and Peace Commission had noted that such practices by the Chinese Government violated the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and had requested that detained clergy and laymen should be unconditionally released and surveillance over Catholics and their religious activities should be immediately lifted; that no pretext of purging "pro-democracy activists" should be used to keep the so-called underground Catholic Church under surveillance; and that the Chinese Government should protect the freedom of Catholics to practise their religion in accordance with their beliefs.

230. On 1 December 1989, the Council of Religious Affairs of the Council of Ministers of the Ukrainian Soviet Socialist Republic had announced that Catholic congregations would be allowed to register with the local State authorities, which meant that the Ukrainian Catholic Church would be legalized as far as possible under current Soviet law. It was encouraging to note that several hundred Catholic congregations had since applied for registration, but his organization was concerned about the USSR law on freedom of conscience and

religious organizations, published on 26 September 1990. Although that new law was an improvement over its predecessors, his organization questioned the need for such comprehensive legislation on religious practice, which implied that religion was a negative social phenomenon calling for special legislation. He requested the Commission to consider its provisions in relation to the Declaration.

231. Pax Romana had drawn the attention of the Commission at its forty-sixth session to the case of Singapore, where legislation entitled "Maintenance of Religious Harmony" had been adopted by Parliament in 1990. That bill, which had strengthened the Government's control over the legitimate religious activities of committed Christian social workers who had been involved in justice and peace activities, violated some provisions of the Declaration. It had provided further legal powers to the Singaporean Government to continue to impose severe restrictions on persons formerly detained under the Internal Security Act, many of whom were committed Christians. Many church leaders and religious organizations throughout the world had criticized the new bill as a violation of the basic right of Christians to be involved in legitimate social action.

232. His organization welcomed the report of the Special Rapporteur (E/CN.4/1991/56), but was unable to comment on it in detail due to its late distribution. In view of the serious situation to which attention was drawn in paragraph 90, he urged the Commission to endorse the Special Rapporteur's recommendations and take particular note of new developments reported upon by his organization. The difficulty of differentiating between persecution on religious grounds and persecution on political grounds, about which the Special Rapporteur had expressed concern in paragraph 96 of his report, was a further serious matter. The three cases he had described appeared to suggest that religious intolerance was often engaged in by Governments in power for political reasons.

233. Ms. PEREZ (Cuba), speaking in exercise of the right of reply, said that her delegation regretted the erroneous information or bad intentions of the representative of the United States, who had referred to the alleged arrest of six Jehovah's Witnesses in her country and the alleged arrest and internment in a psychiatric hospital of a further person for possessing religious material. The United States had obviously obtained its information from a source that was at the very least dedicated to fiction. It would do better to eradicate religious intolerance from its own country. The organization "Freedom Now" had reported cases in which the exercise of religion by Black Muslims there was prohibited. The United States should remove the beam from its own eye before regarding the mote in the eye of others.

234. Mr. OMAR (Observer for the Libyan Arab Jamahiriya), speaking in exercise of the right of reply, said that the representative of the International Association for the Defence of Religious Liberty had referred to the question of religious freedom in Islamic countries and the penalties provided for in cases of apostasy. He had raised the same question at the most recent session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and Mrs. Warzazi and himself had replied to him convincingly and in detail. Despite those explanations, he had unfortunately raised it again in the Commission.

235. Islam imposed itself on no one, but merely let it be known that its principles were open to others, who would be free to convert to it if they so wished but equally free not to do so. All that was required of people was that they should do nothing to prevent others who freely wished to convert to Islam from doing so. The religious freedom guaranteed by Islam to the entire population was unequalled, and all citizens were assured of well-being and prosperity.

236. The allegations about penalties provided for in cases of apostasy were totally unjustified and could only have been made in an attempt to slander Islam and attack its Sharia law, as was being done in certain Western media. The representative of the International Association for the Defence of Religious Liberty should respect the freedom of Muslims and refrain from interfering in their affairs.

237. Mr. LEMINE (Mauritania), speaking in exercise of the right of reply, said that the United States delegation and the representative of the International Association for Defence of Religious Liberty had taken his country as an example when referring to the question of religious freedom and Islam. The response his country had given to the Special Rapporteur on that question had focused broadly on the Islamic concept of religious freedom, and in particular on the question of apostasy. It was clear from that reply that Islam was not an intolerant religion and that it excluded any form of constraint. It was likewise clear that his country's legislation, which faithfully reflected Islamic precepts, was neither intolerant nor discriminatory. The devotion to Islam of the entire people of Mauritania made discussion of the matter purely theoretical, but it could nevertheless be said that the State guaranteed freedom of worship both in law and in fact. In doing so, it adhered to the Muslim tradition, which had always been based on tolerance and respect for other believers. Islam had never been immersed in the fanaticism that had raged elsewhere. On the contrary, Muslim lands had served as a refuge for those who had been hounded by religious intolerance in their own countries. Islam and Muslims respected other religions and their believers, together with their dogmas and rules, and expected to receive the same respect in return. Intolerance lay in a lack of such respect and in the setting up by people of their own convictions and ideas as absolute truth.

238. Mr. KALOC (Czech and Slovak Federal Republic), speaking in exercise of the right of reply, in response to a point raised by the representative of the World Federation of Trade Unions concerning the decision by his country's Federal Minister of the Interior to withdraw permission for the World Federation to have its headquarters and pursue its activities in the Czech and Slovak Federal Republic, said that that decision, taken on 18 January 1991, was not final. The World Federation's appeal was being considered by the competent authorities and a final decision would be taken in line with the legislation in force.

The meeting rose at 9 p.m.